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6 UNITED STATES DISTRICT COURT  
7 CENTRAL DISTRICT OF CALIFORNIA  
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10 MICHAEL EUGENE SCOTT,

11 Plaintiff,

12 v.

13 CARSON SHERIFF DEPT., ET AL.,

14 Defendant(s).  
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Case No. CV 18-6221-JLS (KK)

**ORDER ACCEPTING IN PART  
FINDINGS AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended  
18 Complaint, the relevant records on file, and the Report and Recommendation of the  
19 United States Magistrate Judge. The Court has engaged in de novo review of those  
20 portions of the Report to which defendant McGee has objected. The Court agrees  
21 with defendant McGee's objection and concludes that because Plaintiff was a released  
22 probationer and not a convicted and sentenced inmate, as a matter of law he may not  
23 assert an Eighth Amendment excessive force claim. Accordingly, Plaintiff's excessive  
24 force claim pursuant to the Eighth Amendment is DISMISSED. In all other respects,  
25 the Court accepts the findings and recommendation of the Magistrate Judge.

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1 IT IS THEREFORE ORDERED that the Motion to Dismiss filed by  
2 defendant Dr. Jones is DENIED. The Motion to Dismiss filed by defendant McGee  
3 is GRANTED as to Plaintiff's Eighth Amendment excessive force claim, and  
4 DENIED as to his Fourteenth Amendment excessive force claim.

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6 Dated: 01/30/2020  
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8 HONORABLE JOSEPHINE L. STATON  
9 United States District Judge  
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